

CHAPTER 173
STANDARD DEFINITIONS

[IAB 7/4/07, 261—Ch 173 renumbered as 261—Ch 199]
[Prior to 7/4/07, see 261—Ch 168, div V]

261—173.1(15) Applicability. This chapter shall apply to the following programs and projects:

1. VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).
2. CEBA (community economic betterment account) program (261—Chapter 53).
3. EVA (entrepreneurial ventures assistance) program (261—Chapter 60).
4. TSBFAP (targeted small business financial assistance program) (261—Chapter 55).
5. PIAP (physical infrastructure assistance program) (261—Chapter 61).
6. Brownfield redevelopment program (261—Chapter 65).
7. EDSA (economic development set-aside) program (261—Chapter 23).
8. EZ (enterprise zone) program (261—Chapter 59).
9. HQJC (high quality job creation) program (261—Chapter 68).
10. LCG (loan and credit guarantee) program (261—Chapter 69).
11. Projects approved by the grow Iowa values board that received direct financial assistance from the IVF(FES) fund during the period July 1, 2003, through June 16, 2004.
12. Projects approved under the NCIP (new capital investment program) (261—Chapter 64).
13. Projects approved under the NJIP (new jobs and income program) (261—Chapter 58).

261—173.2(15) Definitions.

“*Agricultural products advisory council*” or “*APAC*” means the council which is composed of five members appointed by the secretary of agriculture and five members appointed by the director of the Iowa department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203 and which reviews VAAPFAP applications and makes recommendations to the director and the board.

“*Average county wage*” means the average the department calculates quarterly using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa workforce development department, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“*Average regional wage*” means the wage calculated annually by the department using a methodology in which each particular county is considered to be a geographic center of a larger economic region. The wage threshold for the central county is calculated using the average wage of that county, plus each adjoining Iowa county, so that the resulting figure reflects a regional average that is representative of the true labor market area. When the average regional wage is calculated, the greatest importance is given to the central county by “weighting” it by a factor of four, compared to a weighting of one for each of the other adjoining counties. The central county is given the greatest importance in the calculation because most of the employees in that central county will come from that same county, as compared to commuters from other adjoining counties.

“*Award date*” means the date the board or the director approved an application for direct financial assistance or tax credit incentives.

“*Benefits*” means all of the following: medical and dental insurance plans, pension and profit-sharing plans, child care services, life insurance coverage, vision insurance plan, and disability coverage.

“*Benefit value*” means a value calculated by the department of the benefit the business makes available to all full-time employees as described below:

a. *Medical, dental, or vision insurance plans.* The department shall use the greater of the business’s portion of the annual premium for: (1) employee-only or single coverage, or (2) family coverage in the wage calculation. If the business’s plan is self-insured, the department will look at the amount paid by the business for costs associated with the plan during the past three years and determine the average annual contribution per employee for that three-year period when determining the value of the medical, dental, or vision plan for the wage calculation.

b. *Pension and profit-sharing plans.* A retirement program offered by the business, such as a 401(k) plan, and to which the business makes a monetary contribution shall be considered the equivalent of a pension plan.

(1) For a pension plan, the department shall use the same calculation used by the business to determine the annual contribution per employee. The annual contribution per employee will be used in determining the value for the wage calculation.

(2) For a 401(k) plan or similar retirement program, the department shall use the average percentage of salary matched or contributed annually by the business on a per-employee basis in determining the value for the wage calculation.

(3) For a profit-sharing plan, the department shall look at the amount paid out over the past three years and determine the average annual bonus or contribution per employee for that three-year period when determining the value for the wage calculation.

c. *Child care services.* Child care services include on-site child care services at the facility in which the project will be located or off-site child care services subsidized by the business at the rate of 50 percent or more of the child care services costs incurred by an employee. The child care services valuation will be based on contributions made by the business for that service, as determined by the department, less any employee-paid costs for that service. The department may consider comparable costs in the local child care market in determining the value of the contribution made by the business. With respect to the wage calculation, the value of this benefit will be applied using the same percentage as the percentage of employees utilizing the business’s child care benefit.

d. *Life insurance and disability coverage.* The portion of the annual premium or cost paid by the business for life insurance and disability coverage will be used in determining the value for the wage calculation. Life insurance premiums paid by the business for dependent coverage will not be included.

“*Board*” means the Iowa economic development board established under Iowa Code section 15.103.

“*Brownfield advisory council*” means the brownfield redevelopment advisory council as established in Iowa Code section 15.294 that makes recommendations for the brownfield redevelopment program established in Iowa Code section 15.292.

“*Business*” means a sole proprietorship, partnership or corporation organized for profit or not-for-profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“*Business’s base employment*” means the number of jobs that the business and the department have established as the job base for a project. The number of jobs the business has pledged to create and retain shall be in addition to the business’s employment base.

“*Created job*” means new permanent full-time equivalent (FTE) positions added to a business’s payroll, over and above the business’s base employment at the time of application for assistance.

“*Department*” means the Iowa department of economic development created by Iowa Code section 15.105.

“*Director*” means the director of the Iowa department of economic development.

“*Due diligence committee*” or “*DDC*” means the due diligence committee composed of members of the board whose duties include, but are not limited to, carrying out any duties assigned by the board in relation to programs administered by the department, reviewing applications for financial assistance, conducting a thorough review of proposed projects and making recommendations to the board regarding funding.

“*Employee*” means:

a. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15).

b. A business’s leased or contract employee, provided all of the following elements are satisfied:

(1) The business receiving the state financial assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.

(2) The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the department as conditions of the financial assistance award to the business.

(3) The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the department, in form and content and at the frequency found acceptable to the department, for purposes of verifying that the business’s job creation/retention and benefit requirements are being met.

(4) The contract between the third-party provider and the business specifically authorizes the department, or its authorized representatives, to access records related to the funded project.

(5) The business receiving the state financial assistance agrees to be contractually liable to the department for the performance or nonperformance of the third-party provider.

“*Equitylike investment*” means the provision of assistance in such a manner that the potential return on investment to the provider varies according to the profitability of the company assisted. This includes but is not limited to: royalty arrangements; warrant arrangements; or other similar forms of investments.

“*FES*” means the federal economic stimulus moneys which were received by the state of Iowa and which funded the 2003 grow Iowa values fund.

“*Float loan*” means a short-term loan (maximum of 30 months) from obligated but unexpended CEBA funds.

“*Full-time equivalent job*” or “*full-time*” means the employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

“*Grant*” means an award of assistance with the expectation that, with the fulfillment of the conditions of the award, repayment of funds is not required.

“*IVF*” means the grow Iowa values fund.

“*IVF(FES)*” means the 2003 grow Iowa values fund originally established by 2003 Iowa Acts, House File 692, section 83, which was funded with federal economic stimulus moneys. The original IVF legislation that established Iowa Code sections 15G.101 through 15G.107 was stricken pursuant to *Rants v. Vilsack*, 684 N.W.2d 193. “IVF(FES)” also includes 2004 Iowa Acts, 1st Ex., ch 1001, §1, 2; 2004 Iowa Acts, 1st Ex., ch 1002, §1-3, 5, which provided for the validation of contracts or approved projects or activities originally funded or intended to be funded through the 2003 grow Iowa values fund, if entered into or approved after June 30, 2003, but before June 16, 2004, and restored FES funding for IDED financial assistance programs.

“*IVF (2005)*” means the 2005 grow Iowa values fund established in Iowa Code chapter 15G and funded with a \$35 million annual appropriation through June 30, 2015.

“*Loan*” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A “deferred loan” is one for which the payment for principal, interest, or both, is not required for some specified period. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“*Loan and credit guarantee committee*” means the loan and credit guarantee committee composed of members of the board and whose duties include, but are not limited to, carrying out any duties assigned by the board in relation to the loan and credit guarantee program administered by the department, reviewing loan and credit guarantee applications and making recommendations to the board regarding funding.

“*Loan guarantee*” means a guarantee of all or part of a loan made by a commercial lender. Payment of all or a portion of the loan guarantee would occur if the business defaults on its repayment of the loan, provided the lender has exhausted standard legal remedies in an attempt to secure repayment from the borrower.

“*Maintenance date*” means the specific time period established by the department past the project completion date through which the recipient shall maintain the project, the created jobs, and the retained jobs.

“*Project completion,*” for the EZ and HQJC tax credit programs, for purposes of reporting to the Iowa department of revenue that a project has been completed, means:

1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“*Project completion date*” means the specific date established by the department by which the business shall have completed all pledged project activities, met its job creation and job retention obligations, and otherwise satisfied the terms of the contract. (See 261—subrule 187.3(3) for a listing of the duration of the project completion period and maintenance period for IDED’s job creation and tax credit programs.)

“*Retained job*” means existing full-time equivalent permanent positions, at the time of application, kept in continuous employment by the business that are at risk of being eliminated if the project does not proceed as planned.

These rules are intended to implement Iowa Code chapters 15 and 17A.

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